

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:04CV586-MU

COVENANT MEDIA OF NORTH CAROLINA,)
L.L.C., MEI YONG “BILLY” XIAO, and)
CHINA BUFFET, L.L.C.,)
Plaintiffs,)
)
v.)
)
CITY OF MONROE, NORTH CAROLINA,)
Defendant.)
_____)

ORDER

THIS MATTER is before the Court upon the Plaintiffs’ Motion to Withdraw Motion for Preliminary Injunction (Document #38). This Motion is hereby GRANTED.

Defendant’s Motion for Summary Judgment will be determined in a hearing set for January 23, 2007, in Courtroom 3. While the Defendant’s new ordinance appears to rectify any current concerns about constitutionality, the issue remains as to whether the original ordinance was unconstitutional.

The new ordinance also raises questions as to when those constitutional concerns, if any, were mooted. Plaintiffs passed a new ordinance on April 4, 2006. The Court notes that the Defendants did not notify the Plaintiffs of the change for three months and did not notify the Court for over six months. Given this delay, the Court will hear arguments from both parties as to the appropriate time period in which to calculate any damages for the Plaintiff (assuming the original ordinance was in fact unconstitutional)—did those damages end when the new ordinance was passed or at some later date when everyone became aware of the new ordinance?

Therefore, IT IS ORDERED that Plaintiffs' Motion to Withdraw Motion for Preliminary Injunction is GRANTED.

IT IS FURTHER ORDERED that the parties appear before this Court on January 23, 2007 at 10:00 am for a hearing on the above issues.

Signed: November 29, 2006

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

